

**September 30, 2010**

**Federal Communications Commission  
Office of the Secretary  
445 12th Street, SW  
Room TW-A325  
Washington, DC 20554**

**Dear FCC Review Officials,**

**Re: CC Docket No. 02-6 ...MR1: Our records show that your appeal was postmarked more than 60 days after the date..... DR1: ...During the course of review, it was determined that the funds were erroneously committed for the funding request 1711150, which was not justifies as cost effective. DR2 Notice of dismissal of applications pursuant to the Red Light Rule.**

On behalf of the students, staff, parents, and administrators at El-Hajj Malik El-Shabazz Academy (hereinafter "Shabazz Academy") here in Lansing, Michigan I submit this request to the FCC for appeal seeking reversal of the September 9, 2010, July 8, 2010, July 29, 2010, April 27, 2010, and September 2, 2010 Schools and Libraries' (hereinafter SLD) letters received by my school. On June (insert date) I suffered a heart attack and as a result required several medical procedures that took place over the summer break. I am fine now, however because of my condition I was unable to regularly respond to requests over the summer break. I seek reversal of three decisions by the SLD that included a Commitment Adjustment, Denial of an Appeal, and Dismissal of my school's 2010 ERATE application in total because of the Red Light Rule being applied and request approval in full of my schools 2010 ERATE request.

I first wish to appeal the SLD's 9/9/10 Appeal Decision denying my school's appeal of their 4/27/2010 COMAD decision of which I never received a copy of til July 8, 2010. See attached Exhibit 1 and 2 which are my requests that a copy of the COMAD decision be sent via certified mail and further explanations related to the initial COMAD letter.

As the COMAD was for return of \$29,160.00 in funds paid on behalf of internet services received by my school in 2008, not being able to pay the amount resulted in the Red Light Rule being applied and my school's entire 2010 application being dismissed.

I further wish to appeal the Notification of Commitment Adjustment Letter (Funding Year 2008: July 1, 2008 – June 30, 2009) which I received on July 8,

2010 after requesting a copy be sent to me in my appeal letter dated June 24<sup>th</sup>, 2010. This letter has a April 27, 2010 date which says that “.. the applicant must select the most cost effective service or equipment offering, with price being the primary factor, which will result in it being the most effective means of meeting educational needs and technology plans for requested services should be based on an assessment of their reasonable need.” And further that “Since FRN 1711150 exceeded the applicants reasonable needs, this funding commitment is rescinded in full and SLD will seek recovery of any improperly disbursed funds from the applicant.”

#### Appeal of Cost Effectiveness Complaint

- 1) Once our 470 was posted, we received one bid which was from American Internet Group (AIG). Considering the activities found in our plan, and relative to the needs of our 97% low income student population and staff, we determined that the bid proposal was fair and cost effective. Hence AIG was approved.
- 2) SLD’s own in house application monitor, Program Integrity Assurance, approved the cost for the items after the service provider satisfactorily answered all of their questions.
- 3) When compared with similar sized schools Shabazz’s costs appear to be quite reasonable. See Exhibit 2.

#### Appeal of Reasonableness of Technology Plan

Our school’s technology plan has as its focus equitable technology implementation, equal access and equitable distribution of human and financial resources for an underserved population, 97% poverty rate, and a 99% underserved minority student body. Throughout the plan we placed emphasis on identifying human and technical resources that would enable our students to bridge the digital gap that exists at Shabazz Academy.

Upon completion of the technology plan we submitted it to our intermediate school district’s technology office for review wherein it was approved after we made a couple of changes (See Exhibits 3 and 4). The plan also received approval from the Michigan Department of Education wherein they notified SLD of its approval. At no time did SLD inform my school or either of the two approving parties that the technology plan was unacceptable.

Additionally, our request for continuation of T1 high speed internet is reasonable and exactly what is called for in our technology plan dating back to 2002. The

need to switch from Michigan State University's lower cost internet service was because of the constant hacking from students and other on their network – resulting in significant downtime for our program making online testing and web collaboratives impossible.

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I humbly ask the FCC to remove the 2008 COMAD and related Red Light Rule and grant approval of my school's 2010 application in it's entirety as our students, staff and parents will be negatively impacted because our small school budget does not allow funding for many of the so necessary discounted services we receive through the ERATE Program. We love the program. Otherwise, we will have to reduce staff and services to overcome the shortfall.

Sincerely,

Eugene L. Cain, Ed. D.

Chief School Administrator



Heart • Heritage • High Aspirations

June 24, 2010

Schools & Libraries Division Correspondence Unit  
100 South Jefferson Road  
PO Box 902  
Whippany, NJ 07981

RE: Form 471 Application Number: 620984  
Funding Year: 2008  
Applicant's Form Identifier  
Billed Entity Number: 56742  
FCC Registration Number: 0014670327  
SPIN: 143025387  
Service Provider Contact Person: Jonathan Edwards

Dear Madam/Sir:

On June 20, 2010, I was informed by Jonathan Edwards, one of our service providers that he was in receipt of a copy of a letter from your office that was mailed to me. The letter's inside address was dated April 27, 2010. Know that I never received the letter. Further the letter is a "Notification of Commitment Adjustment Letter."

Please know that I am herein requesting a copy from you of the letter that was supposedly sent to me. Recognizing the importance of this letter, I would appreciate you sending it via "certified mail" to my attention.

Finally, know that upon receipt of the forementioned letter, we will appeal, the Commitment Adjustment Decision based on the fact that all USAC guidelines were followed and the total cost was well within the budget of similar sized Michigan schools.

Thanks for your prompt attention to this matter.

Sincerely,

Eugene L. Cain, Ed.D.  
Chief School Administrator

## Award Comparisons

07

University Prep in Detroit asked for \$520K for internet and received \$416K along with co-pay (5 locations and 1226 students) way less cost effective than 2008 Shabazz (AIG) price.

05

University Prep in Detroit asked for \$47,25 for internet and received \$42,960 along with co-pay (1030 students).

04

Timbuktu Academy in Detroit asked for \$49,818 for internet and received \$44,836.20 along with co-pay (1 location and 274 students).

Marilyn Lundy Academy in Detroit asked for \$51,981.96 for internet and received \$46,783.76 along with co-pay (1 location and 110 students).

## Exhibit 3

From: Daryl Tilley <DTILLEY@inghamisd.org>  
Subject: **Technology Plan**  
Date: December 9, 2008 9:51:46 AM EST  
To: eugenecain@mac.com

Dr. Cain,

I have completed my review of your technology plan and I would like to say you and your team did a great job. I need one area clarified before I can approve it and send it on to the state.

Item 31 in the checklist discusses detailed budgeting for the years covered by the plan. On pages 16-17 the dates covered by these sections are listed as follows:

Phase 1 reads "200372008"

Phase 2: reads "2007/1008"

Phase 3: reads "2008/2009"

I assume there is a typo and these should be 07/08, 08/09, and 09/10. Can you correct this and resubmit the plan?

Also, the detailed budget for each year should include salaries and benefits, so I would suggest including any stipend to the teacher/technology facilitator receives for technology support.

Once you have made these corrections you will have to resubmit the plan online, after which I can quickly approve the plan and send it on to the next level (MDE).

Please contact me with any questions or concerns.

Daryl

Daryl Tilley  
Supervisor, Information Systems  
Ingham Intermediate School District  
2630 W. Howell Rd.  
Mason, MI 48854  
517-244-1278

August 29, 2010

Exhibit 4



Schools & Libraries Division – Correspondence Unit  
100 S. Jefferson Road  
P.O. Box 902  
Whippany, NJ 07981

**RE; FORM 471 APPLICATION NUMBER: 620984**

**Funding Year: 2008**

**Applicant's Form Identifier**

**Billed Entity Number: 56742**

**FCC Registration Number: 0014670327**

**SPIN: 143025387**

**Service Provider Contact Person: Jonathan Edwards**

Dear Madam/Sir:

I am herein appealing the Notification of Commitment Adjustment Letter (Funding Year 2008: July 1, 2008 – June 30, 2009) which I received on July 8, 2010. This letter has an April 27, 2010 date which says that my "...appeal must be received within 60 days of the date of this letter."

I sent a previous letter (Exhibit 1) regarding this matter and requested you to send me the letter that you sent to the service provider. Hence, your letter to me of July 8, 2010 I believe is your response to my request.

The findings that we wish to appeal are (1) "... the applicant must select the most cost effective service or equipment offering, with price being the primary factor, which will result in it being the most effective means of meeting educational needs and technology plans for requested services should be based on an assessment of their reasonable needs."

APPEAL OF COST EFFECTIVENESS COMPLAINT

**1. Once our 470 was posted, we received one bid which was from American Internet Group (AIG). Considering the activities found in our plan, and relative to the needs of our 97% low income student population and staff, we determined that the bid proposal was fair and cost effective. Hence, AIG's bid was approved.**

2. USAC's own in house application monitor, Program Integrity Assurance, approved the cost for the items after the service provider satisfactorily answered all of their questions.

3. When compared with similar sized schools Shabazz Academy's costs appear to be quite reasonable. See Exhibit 2.

#### APPEAL OF REASONABLENESS OF TECHNOLOGY PLAN

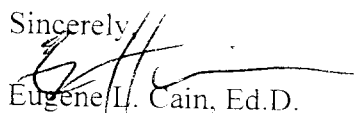
Our school's technology plan has as its focus equitable technology implementation, equal access and equitable distribution of human and financial resources for an underserved population, 97% poverty rate, and a 99% underserved minority student body. Throughout the plan we placed emphasis on identifying human and technical resources that would enable our students to bridge the digital gap that exists at Shabazz Academy.

Upon completion of the technology plan we submitted it to our intermediate school district's technology office for review wherein it was approved after we made a couple of changes (See exhibit 3 ). The plan also received approval from the Michigan Department of Education wherein they notified USAC of its approval. At no time did USAC inform the school or either of the two approving parties that the technology plan was unacceptable.

Additionally, our request for continuation of a T1 high speed internet is reasonable and is exactly what is called for in our technology plan dating back to 2002. The need to switch from Michigan State University's internet service was because of the constant hacking from their network – resulting in significant downtime for our program.

Finally, we are unable to comply with your sixty-day response time considering that we received the notification on July 8, 2010. We appreciate your consideration of this appeal.

Sincerely,

  
Eugene L. Cain, Ed.D.

Chief School Administrator